



SAN BENITO COUNTY PLANNING COMMISSION

Mark Tognazzini
District No. 1
Chair

Valerie Eglund
District No. 2

Pat Loe
District No. 3

Ray Pierce
District No. 4

Robert Rodriguez
District No. 5
Vice Chair

County Administration Building - Board of Supervisors Chambers, 481 Fourth Street, Hollister, California

SPECIAL MEETING MINUTES **November 14, 2018** **5:30 p.m.**

6:35 PM ~ CALL TO ORDER

PLEDGE OF ALLEGIANCE - Commissioner Ray Pierce

ROLL CALL

*Commissioners Present: Present: Vice-Chair Robert J. Rodriguez, and Commissioners Ray Pierce, Valerie Eglund, and Pat Loe
Not Present: Chair Mark Tognazzini*

Staff Present: Principal Planner, Taven M. Kinison Brown; Permit Technician, Anita Gutierrez; Permit Technician, Rosie Habing; Interim Assistant County Counsel, Michael Ziman

ACKNOWLEDGEMENT OF CERTIFICATE OF POSTING

PUBLIC COMMENT ON CLOSED SESSION

SPECIAL AGENDA ITEM

CLOSED SESSION:

- 1. COUNTY ADMINISTRATION OFFICE - R. ESPINOSA**
Informational Overview of Cannabis ordinances presentation.
SBC FILE NUMBER: 119

Management Analysis Dulce Alonzo-Spoke on the three proposed cannabis Ordinances for San Benito County.

Chapter 25 will touch base on the zoning aspect with the Conditional Use Permit process.

Chapter 19.43 will touch base on the how the use will be allowed. The Land Use & Regulatory process.

Chapter 7.02 will touch base on the who & the how of the Business.

Public input will be heard throughout the CUP process.

Dulce Alonzo provided stats from United States Cannabis Legal Market and Business Wire. Annual

reporting has shown recreational use to be increasing. Top medical uses are to treat pain, Stress, and Insomnia.

Chapter 11.14 touches base on cannabis personal use; and will not to be discussed at this meeting.

Chapter 17.2 bans Cannabis business in the unincorporated San Benito County.

Measure C Article 5.03 was passed on June 6th creates a Business tax for Cannabis businesses.

Categories addressed were Cultivation, Manufacturing, Laboratory Testing,

Distribution and Micro Businesses. The Board has directed delivery only from outside the

County municipalities and no retail allowed in the unincorporated areas.

Three main components that make up the Cannabis policy, there is Zoning, Developmental Standards and Business. The 3 components work to together to regulate the business activity.

Commissioner Pat Loe questioned the limit of only 50 permits being issued.

Dulce Alonzo replied 50 permits for cultivation and agenda item #2 will cover the question. Today we will be amending sections of the zoning code and adding new chapters to zoning code.

All commercial cannabis activity will be required to have State license, Conditional Use permit and also a cannabis business permit as well. Expected tax revenue is \$1.2 – \$2.5 million to \$2.3-\$4.3 million

DISCUSSION - AGENDA ITEMS

PUBLIC HEARING Items 2-4 open

2-4 RESOURCE MANAGEMENT AGENCY - J. GUERTIN

a) PUBLIC HEARING - Conduct public hearing regarding the draft ordinance regulating cannabis business zoning in San Benito County (amending 25.07 and 25.17); and

b) Consider adoption of resolution recommending that the Board of Supervisors adopt an Ordinance amending Chapters 25.07 and 25.17 of the San Benito County Code relating to cannabis business zoning, making 2035 General Plan consistency findings and determinations, and making appropriate findings and determinations under the California Environmental Quality Act (“CEQA”); or

c) continue this items to another date and time certain.

COUNTY ADMINISTRATION OFFICE - R. ESPINOSA

a) PUBLIC HEARING - Conduct public hearing regarding the draft ordinance regulating cannabis business land use regulations in San Benito County (Adding Chapter 19.43 to the San Benito County Code); and

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COUNTY ADMINISTRATION OFFICE - R. ESPINOSA

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b) Consider adoption of resolution recommending that the Board of Supervisors adopt an Ordinance amending Chapter 7.02 of the San Benito County Code relating to cannabis business permitting, making 2035 General Plan consistency findings and determinations, and making appropriate findings and determinations under the California Environmental Quality Act (“CEQA”); or

c) continue this item to another date and time certain

Principal Planner Taven Kinison Brown presented Sections 25 the Zoning , Section 19 the Land Use, Section 7 which is the business and Title 5 the licensing and taxing part of Cannabis Ordinance

Commissioner Pat Loe asked general question regarding sections. Some of these questions may go back and forth do we need to worry about asking the question in the right time Frame?

Principal Planner Taven Kinison Brown responded as moderated by the chair running the moderate level, he would be glad to respond to questions.

County Counsel Sarah Dickinson responded to be sure that if we are on Section 25 you only as questions regarding that section, please be aware of not making any decisions or enter into a decision making until we are in each of those sections. When decision being made, please be very specific

Principal Planner Taven Kinison Brown suggested that open public hearing on all three items 2, 3 & 4 concurrently.

Chair Robert Rodriguez agreed. All items were opened

Principal Planner Taven Kinison Brown started with zoning district and zoning codes need to be changed. Agricultural Productive and Agricultural Rangeland have been suggested with covered grow. There is to be no visible grow. These zoning districts have potential of meeting all required or suggested setback. Some setback be suggested to be 300 ft. to 1,000 ft. setback.

Commissioner Ray Pierce questioned if size of grow would also be discussed?

Principal Planner Taven Kinison Brown said nothing is off the table for discussion.

Commissioner Pat Loe questioned AP land, parcels are normally 5-10 acres is there any thought to a minimum amount of acreage?

Principal Planner Taven Kinison Brown said yes, there has been generally need to be about 10 acres to have a grow and meet setbacks. There may be some variance so the small proprietor has a chance. Not quite sure on how to strike the balance.

Commissioner Pat Loe stated concern is a landowner with 8 acres thinking they are able to have a grow then later down the road finding out not possible. She would like to be up front.

Principal Planner Taven Kinison Brown said they may be able to if they can prove that they meet the development parameter and requirements. He suggested changes to Section

25.07.05 AP & AR District be added new sections CC, DD and EE, section 25.17.023 CM district added sections D-I, 25.17.044 M-1 district added new sections D-I and 25.17.064 the M2 district it has been suggested that these areas be prohibited. It has been suggested for the following reasons: the M2 districts are hard to find, there a very few in the County. Past experience is once a M2 zoning has been lost to a business that can fit into one of the other districts, you lose potential businesses. If you want it to be allowed in the M2 district you would not approve the section 25.17.064. All districts a would need conditional use permit.

Commission Ray Pierce question if possible to allow M2 district on a case by case basis?

Public Comments open

Speaker Steve Becerra resident since 1979. We are going to have commercial business in San Benito County. We need to move forward in the right way, I don't think it is fair to the people wishing to do business to make them wait 6 months, but we need to move forward slow and carefully. Generate \$1.4-\$4 million for 50 cultivation permits we need to ask how much value is going to be lost by neighboring properties. I am a volunteer for the Pinnacle National Monument search and rescue team. I have spoken with people in California and other State and Countries. We need to focus on what people will see when then go through our County.

Speaker Tony LoBue heavy industrial not included and I see that as an opportunity we should not forgo. Wanted further information of evaluation process and it would be nice to see what the process would be if there were more than 50 applicants. Commissioner Ray Pierce suggested that maybe the local residents would get preference.

Speaker Jason Noble worked on the General Plan Update and with the General Plan Update always wanted to create opportunities within the community and hearing Taven speak on not allowing manufacturing in the M2 are opportunities he does not want to miss. In reviewing the map there is very little heavy industrial but in contrast to what was said this seems most appropriate because of the noise and smell. Not necessarily cultivation but manufacturing in Section 19.43.70 states that is should be no closer than 300 ft. from any residentially zoned parcel which has sub section 19.43.60 sub section b does not exist. 19.43.60 is fees so a closer look needs to be taken and revisions made. Along San Juan Road you see many homes in the area. Homes in the M2 zoning are hard to obtain financing. Those properties are not valuable. 3-ii shall not grant a variance to reduce the setback requirements that is 10 acre or less would you consider adding industrial.

Speaker Tim McCord is a farmer in North County I said a lot of changes and a lot less farming. We had an experiment with marijuana farming in our County about a year ago. It was a disaster We had two grows out in our area we had live with that odor 24/7 it was not pleasant. I would rather smell skunk than marijuana. We need to think about contamination to our ground and water aquifers. As farmers we need to pay in and have wells tested. We pay \$300.00 1-2 times a year for testing. I understand that fertilizers are necessary for marijuana grow. What happens to the ground? Where does it go? We also pay a water runoff which goes to the Pajaro River. Is this going to fall back on people leasing the property, business owner or the property owner? We need background check on the workers. Do they have a criminal record? Do they carry guns?

Speaker Josh Watt 1 year since abatement and we are still deer in the headlights. I have a commercial property that has been in the application process since day 1. I would be more than happy to adopt as a pilot program and have you come look at it. A lot of the questions asked today can be answered by a simple walk through. My house is open and business is open to anyone with any questions.

Speaker Elia Salinas wants to put into prospective how long process has taken and how anxious the property owner and operators are to get something going. we want to get this done right and put into consideration that we will be having some new commissioners appointed. You may want to take that into consideration about how long this will take. With regards to the application and CUP process it boggles my mind on why I would put in an application without know if the property I am going to be focusing on or purchasing, leasing or whatever it may be that it doesn't have a CUP. I have experience on the application process and CUP running simultaneously. Does not take one before the other. M2 district is a matter of economics. If there are places out there and they are not being used and can be used you should consider allowing in M2. Setbacks are they boundary setbacks or wall to wall setback.

closed public hearing at 8:38

Commissioner Valerie Eglund Amount of setbacks between sensitive areas, such as school is not enough. 600 ft. between cannabis and a child nursery. Setbacks need to be re-evaluated.

Commissioner Pat Loe- M2 zoning after listening to public I can go along with adding. Mr. McCord brought up a good point about fees and the fees the farmers are paying. This industry falls in farming and I feel they should also be paying the same fees. Concerned about security and security carrying guns. I feel the sheriff really needs to weigh in on this. Some areas they may need to carry guns and the sheriff should determine that. Concerned about common wells and how people on a common well and how someone on a common well will be protected.

Commissioner Ray Pierce A requirement for an individual well for the project

Commissioner Ray Pierce A mechanism needs to be in place to protect the other people and we also need to be concerned about areas with a shared street, will we be bringing down heavy equipment? Will it be breaking up the road? People living in the area need to have some recourse and be able to protect their rights. We as a planning Commission need to protect the rights of people already living in the area. prime AG land, has there been a decision made regarding prime AG land?

Commissioner Ray Pierce It is on the books that you do not cover Prime AG land.

Commissioner Ray Pierce You hear a lot of crop talk, how would you ban a crop On prime AG land?

Commissioner Pat Loe You are not banning a crop on prime AG land you are Banning green houses on prime AG land.

Principal Planner Taven Kinison Brown As County Code stands if anyone wants to cover prime AG land with a structure they need to compensate for that according to the General Plan. As it stands you would need to compensate for prime AG land.

Commissioner Pat Loe What if we make the compensation 2 to 1? Can we do that?

Principal Planner Taven Kinison Brown Not sure how to answer.

County Counsel Sarah Dickinson stated that it would have to be looked into.

Commissioner Ray Pierce If you are going to eliminate from prime AG use then you keep the prime AG value. What happens to land owner that has bad production and has a marijuana grower who wants to lease his land? What about view shed? Concerned about the view shed along highway 25 which is a scenic highway. Does not want is lined with greenhouses along the highway. Would like to limit the size of the use to the size of the zone. Would consider 5 acre parcels allowed for grow site. Agrees that M2 district should be allowed as long as you are not running out existing neighbors with obnoxious smell. Not in favor of any rent a cop carrying a gun. I think people carrying a gun should have to qualify 2 times a year.

Commissioner Valerie Egland Would San Benito County be able to require that Someone out of the police force be hired to make rounds?

Commissioner Ray Pierce liability may be too high for San Benito County to have Sheriff to patrol and secure.

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Chair Robert Rodriguez would like M2 added to use, and clarify AR & AP zoning.

Taven Kinison Brown not prohibit in M2, concern for additional Prime AG protection, Concern about lighting, want development standards for lighting, acreage, maybe Wipe out minimum acreage site, if a property can meet setbacks, setbacks should be property line to property line not Wall to wall because buildings can be moved.

Amendments include removing section 25.17.064 where it prohibits M2 zoning and clarify AR & AP zoning.

Commissioner Ray Pierce made motion to approve resolution with the amendments.
Commissioner Pat Loe 2nd the motion
Motion Pass4/0 (Chair Tognazini out)

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Principal Planner Taven Kinison Brown believes this is where the development standards belong. It is the same as solar farm and oil & gas wells. Business land use regulations belong in this section. Supplemental finding are included for cannabis business land use. Section 19.43.030 requires additional finding for person proposing development would need to demonstrate that they could make Health, Welfare & Safety findings. Permit requirement for all cannabis businesses. Supplemental requirements for certain type of businesses. Sub section 070 & 071 includes development standards applicable to all cannabis businesses. Sub Section 040 & 050 are permit requirements, kind of submittal items needed to make decision. Plan Operating requirements additional findings needed conform to Zoning & General Plan, located in right zoning district, Security and safety measures.

Commissioner Pat Loe- Lighting and light pollution. How are we going to meet the security goal without bothering neighbors with lighting?

Principal Planner Taven Kinison Brown Down shielding of lighting on safety zone.

Commissioner Ray Pierce Similar uses as green houses in the area. Such as lighting Restrictions, such as down time or timed lighting?

Principal Planner Taven Kinison Brown Not sure if dark sky, what other security measure Will be in place. Something needed to learn by the industry or growers.

Commissioner Pat Loe More concerned with security lighting. Sounds more intense.

Principal Planner Taven Kinison Brown 19.43.070 suggested that it is in proper location (right zone), sensitive setbacks 100 ft. from boundary line, 1000 ft. from sensitive zones; such as schools and emergency services and 300 ft. from residential zoned parcels in the County, including any nonconforming parcels. Questions on 300 ft. from the house or the parcel line? Generally standards require everything will need a building permit, inspections, floor plan, security measure, storage and transportation plans. Operation requirements applicable to all businesses operate in reasonable manner, minimize dust glare, must not create hazard. Complaints come in regarding lighting, hazardous material storage if becomes nuisance can schedule hearing to revoke permit if not conforming with permits. Operating requirements prohibit loitering, restriction on alcohol, age restriction and hours of operation does 9 pm mean lights out business closes down? Limitation of signage and notices. Signage should be subtle.

Commissioner Ray Pierce When should we encourage the public to add comment or present questions?

Commissioner Pat Loe at the end of the item 4 would be good time.
Principal Planner Taven Kinison Brown clarified that draft ordinance do not include a retail facility.

Amendments to Section 19.43.050, Section A, item 3. to include view shed, scenic corridor and item 4 preservation of Prime AG land. Section 19.43.070, section A, item 2 iii exclude remove wording parcel and replace with structure and add M2 zone. Section 19.43.071, item D remove 8 pm to 8 am and replace with darkness, item H remove hours of operation and replace with to be determined by conditions of use permit.

Commissioner Ray Pierce made motion to approve with changes.
Commissioner Valerie Egland 2nd motion
Pass 4/0 (Commissioner Tognazini absent)

4. COUNTY ADMINISTRATION OFFICE - R. ESPINOSA

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Consultant David McPherson from HDL consultant hired by County. Regarding hours of operation, the hours are standard for most businesses. A lot of the requirements mimic the State mandated requirements. Hours of operation may be determined by the type of businesses. Manufacturers may have multiple shifts. City of Hollister issued 37 permits but only have 2 operating, more of a combination of manufacturing and cultivation.

Title 7 more of business aspect. Focus on how to get businesses in the County and how to have oversight to the businesses. Quality control, integrity control and make sure you get the right businesses. Have a clearly defined process. A lot of definitions included in ordinance to help interpret ordinance. One specific definition which is not clearly defined is a youth center. What is considered a youth center? Is Chuck E Cheese a youth center or is 7/11 a youth center because it has children hanging out? There are many variations of interpretation because the State was not very clear.

One of the changes made was, the Cannabis Co-Coordinator, this may or may not happen. So wherever it falls there needs to be a designee appointed. How do you regulate the businesses and the owners and second how do you manage the employees of the business. Have consistent rules and regulations. Step one is the application process and evaluation will be scored and ranked thru the competitive process. Step two will then public hearing not public noticing because that happens at CUP process. Competitive process for the limited 50 cultivator permits.

Principal Planner Taven Kinison Brown under impression speaking about the licensing of individuals confused on how CAO or administration would weigh in on a facility permit and that there would be a ranking. Thought that in staff discussion it was decided to separate building & structures being used versus operator qualifications of the individuals.

David McPherson correct on CUP side. This is a low level assessment of the total applicant.

It is not to go into detail to make sure every perfect thing on the planning side is being done the package is more of the criteria needed. More of high level security plan, proposed location and the who and the how. After the phase four has been cleared by the CAO you then move on to phase 5 which is the RMA CUP.

Principal Planner Taven Kinison so what you are saying is that anyone who comes to the RMA to apply for a CUP will already have worked through licensing and background clearance with the Cannabis administrator.

David McPherson, there are State requirements so this is more of a check list. Do you have your sellers permit? Do you meet or are you prepared at the State level? Background check on State and local level. There are several disqualifiers at the State level which apply to local level? This is meant to save time and expense at the CUP level. Chapter 7 specifically has the due process denials suspensions, revocation and the appeals process for when you have problems with the business. Action against the business not the owner of the property. Do your employees have work permits? This is meant to control access to the facility and theft of product and monies. Work permit will be reviewed on an annual basis. If there is a big turn over or employees have been fired due to theft this is due diligence.

Commissioner Pat Loe does this mean employees who are able to work are permitted?

David McPherson we used the word permitted but they are actually badges and have passed the background check.

Commissioner Pat Loe what triggers background check?

David McPherson when employees are hired they need to come in and fill out a background check application which takes about 10 days. If all is good they would be issued a badge from the County which permits them to work.

Commissioner Pat Loe questioned on whether they could work for any facility with their badge?

David McPherson responded no, the badge is specific to each operation. If they change operations they will need to turn in their badge and apply for a new one specific to the new operation. Way of monitoring why they are moving around the County. Operators have coverage for liability. They hold the County harmless or limit the County's liability. How vendors repair or visitors are handled while in the facilities. Law enforcement has access to the facilities following up on investigations. Have the right and authority to enter if they get complaints. Authority from the DOJ and FBI to run reoccurring information. Phase 1 is pass the background check, get a low level zoning letter and application reviewed for completeness. Phase 2 higher level HDL will recommend applicants who have a score of 80 or higher interview with set of questions and ranking at this point there will be a public meeting if still meet the minimum County standard will go to next step which is to move to phase 3. If the CAO or the Administrator approves the recommendation they then move onto phase 4 the CUP Process. The RMA office will then make the final review. See if you make it through The planning, building and CEQA process.

Principal Planner Taven Kinison Brown trying to find separation and or cooperation between the Cannabis Administrator and the CUP process. Will they be coming to

the RMA for a Land Use application.

David McPherson they will be coming to your office for zoning verification letter.

Principal Planner Taven Kinison Brown afraid we are creating a cart before the horse situation. Before you can get a use permit for your facility you need qualify for your license in which you need safety plan, security plan and business operations plan which hasn't been flushed out with the operations of a facility. License required for land owner of the property. So if a business came in and said I am going to be part of an operation which already has an approved safety plan, security plan.

If three business on same property the whole purpose is to identify that my relationship With the other businesses in the building will not interfere with my ability to run my business according to state law. We want to make sure they understand what is necessary up front. It is to demonstrate that they understand what is required. We find when requiring up front we see a better success rate at the State level. When required at the front end you get the serious operators to come in.

Chair Robert Rodriguez I see both points shouldn't they be required to get a CUP before applying for all the other stuff, to make sure property is available or proper zoning.

David McPherson that is what the zoning clearance letter is for.

Chair Robert Rodriguez When they go through the CUP some of the requirements cannot be met and not approved. You then went through the process and you don't get approved. I believe they should do the CUP 1st then do the application.

David McPherson there are 125 agencies in California which have done this and on the CUP is done the back end.

Chair Robert Rodriguez but there is only one County San Benito.

David McPherson I am just telling you how it is done but you can make your recommendation to the Board of Supervisors.

Chair Robert Rodriguez If it goes to the process and gets rejected at the Planning I

Commission level or the Board of Supervisor level the applicant has spent a lot of money up front for something that is not approved

Principal Planner Taven Kinison Brown I see it as an inverse. If someone wants to make a Development Review process with the County RMA and we lightly say can you pass a background check and they come in and say look I am good.

Commissioner Ray Pierce without reinventing the wheel how does it work in other Agencies.

David McPherson the process has run very well the delay is always on the CUP process. We have seen CUP process take anywhere from 12 months to 3 years.

Commissioner Valerie Eglund you need license before you can drive. Applicants Need to be educated by County source before they go out and look for a facility to do business. Seems like a logical progression.

Principal Planner Taven Kinison Brown confused by slide 4 are we going to parade people in front of the public hearing and have a contest for who gets to do business?

David McPherson not BOS it will be a public meeting. The meeting will be to address any concerns and give the public the opportunity speak before any determination is made.

Commissioner Ray Pierce made motion to approve as it stands
Commissioner Valerie Eglund 2nd motion
Pass 4/0 (Commissioner Tognazini absent)

Minutes prepared by:

Permit Technician, Anita Gutierrez

ADJOURN TO Special meeting of December 5, 2019 @ 6:00 P.M.

ADJOURN

NOTE: A copy of this Agenda is published on the County's Web site by the Friday preceding each Commission meeting and may be viewed at www.cosb.us. All proposed agenda items with supportive documents are available for viewing at the San Benito County Administration Building, 481 Fourth Street, Hollister, CA between the hours of 8:00 a.m. & 5:00 p.m., Monday through Friday (except holidays.) This is the same packet that the Planning Commission reviews and discusses at the Commission meeting. The project planner's name and email address has been added at the end of each project description. As required by Government Code Section 54957.5 any public record distributed to the Planning Commission less than 72 hours prior to this meeting in connection with any agenda item shall be made available for public inspection at the Planning Department, 2301 Technology Parkway, Hollister, CA 95023. Public records distributed during the meeting will be available for public inspection at the meeting if prepared by the County. If the public record is prepared by some other person and distributed at the meeting it will be made available for public inspection following the meeting at the Planning Department.

APPEAL NOTICE: Any person aggrieved by the decision of the Planning Commission may appeal the decision within ten (10) calendar days to the Board of Supervisors. The notice of appeal must be in writing and shall set forth specifically wherein the Planning Commission's decision was inappropriate or unjustified. Appeal forms are available from the Clerk of the Board at the San Benito County Administration Office, 481 Fourth Street, Hollister and the San Benito County Planning Department, 2301 Technology Parkway, Hollister.

NOTE: In compliance with the Americans with Disabilities Act (ADA) the Board of Supervisors meeting facility is accessible to persons with disabilities. If you need special assistance to participate in this meeting, please contact the Clerk of the Board's office at (831) 636-4000 at least 48 hours before the meeting to enable the County to make reasonable arrangements to ensure accessibility.